



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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November 19, 2010

VIA INTERNET

Dear Interested Party:

The Sales and Use Tax Department (SUTD) Audit Manual (AM) is a guide in conducting sales and use tax audits for its tax auditors. It is also available to the public.

SUTD is proposing to revise AM Chapter 1, *General Information*. The proposed revisions incorporate current policies and procedures on use of annotations (AM section 0101.47), electronic transmission of data (AM section 0101.67), and audit workpaper retention (AM section 0117.02). These AM sections are displayed on the following pages for the convenience of interested parties who may wish to submit comments or suggestions.

If you have any comments or suggestions related to AM Chapter 1 revisions, you may contact the Department at AM.RevisionSuggestions@boe.ca.gov, or you may submit your comments or suggestions to:

Ms. Nini McCormack
Sales and Use Tax Department
State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0050
Fax: (916) 322-2958

Your comments or suggestions must be received by **January 19, 2011** in order to be considered by staff. Thank you for your consideration.

Sincerely,

Susanne Buehler, Acting Chief
Tax Policy Division
Sales and Use Tax Department

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USE OF ANNOTATIONS

0101.47

When using an annotation to clarify BOE's position regarding a statute or regulation, a review of the annotated legal opinion is often helpful. In addition to the online Business Taxes Law Guides, a complete list of annotated opinions is available by subject area on the Sales and Use Tax Annotated Legal Opinion Letter web page at <http://www.boe.ca.gov/sutax/annotations/menu.htm>. This page also provides a link to the redacted copy of the annotated opinion, if available. If the electronic annotated opinion is not posted, use the online request form to receive a copy of the legal opinion. Suggestions and comments regarding published annotations may be submitted using the same online request form.

Annotations may be revised or deleted. Opinions supporting deleted annotations should not be retained in section or district libraries, reference files, or files maintained by BOE employees.

For more information regarding annotations, refer to Regulation 5700, *Annotations*.

AUTHORIZATION FOR ELECTRONIC TRANSMISSION OF DATA **0101.67**

The BOE collects and stores confidential taxpayer or feepayer information and has a responsibility to protect this information from unauthorized access, use, and disclosure. BOE employees with a business need to transmit confidential or personal information electronically outside the BOE may not do so without protection (encryption) of that information. However, the taxpayer or feepayer may consent to the electronic transmission of confidential or personal information without encryption by signing a completed Form BOE-82, *Authorization for Electronic Transmission of Data*, available at <http://www.boe.ca.gov/sutax/staxformsn.htm> (Sales and Use Tax Forms and Applications web page). Form BOE-82 may be obtained only by BOE employees with a business need to transmit unencrypted confidential or personal taxpayer or feepayer information outside the BOE. The form must be completed and signed by the taxpayer or feepayer, or an authorized representative who holds a power of attorney.

The completed Form BOE-82 must be maintained in the taxpayer or feepayer's current assignment file or the audit working papers for which it was obtained. For audit cases, the receipt of Form BOE-82 must be documented on Form BOE-414-Z, *Assignment Activity History*. The authorization will remain in effect, until rescinded in writing, for the current assignment only and not future or prior assignments. In addition, the following statement must be included at the top of each electronic transmission of confidential information:

Confidential information of the California State Board of Equalization (BOE) – unauthorized use or disclosure is strictly prohibited by law. If you receive this e-mail in error, please immediately notify the BOE by return e-mail and delete this message from your computer, without printing the message, and without disclosing its contents to any person other than the sender or recipient. Persons who copy or disclose such confidential information are subject to applicable legal penalties.

BOE employees must not encrypt files before transmitting via e-mail if the taxpayer or feepayer's internal policies prohibit the download, installation, or execution of any unauthorized software. In this situation, BOE employees must either obtain Form BOE-82 or provide the data to the taxpayer in hard copy.

GENERAL PURGING GUIDELINES

AUDIT WORKPAPER RETENTION POLICY

0117.02

Archived electronic audit working papers (AWPs) for all accounts (active and closed out) shall be retained indefinitely. All paper AWPs with no periods open to statute may be purged except as noted below.

~~For active accounts, all audit reports and AWPs~~ Paper copies of the two prior audits (the most current audit and the one prior) ~~must be retained for the following accounts even if archive CDs are available:~~

- Active accounts
- ~~Audit reports and AWPs for e~~Closed-out accounts ~~may be purged provided there is no~~ with legal successors, tax liabilityies owing from ~~the an~~ an audit, pending appeals or litigation, ~~active liens for written off liabilities, petition for redetermination,~~ claim for refund, pending request for RTC section 6596 relief, or other similar matter. ~~When audits of closed out accounts have met these purging guidelines, the audit report and AWPs should be destroyed. However, where there is a successor to the closed out account, AWPs of the predecessor should be treated as an audit of the successor and destroyed only when the successor meets the criteria for AWP destruction. . These AWPs may serve as basis for RTC section 6596 relief for the successor.~~

Backup CDs must be stored in a secure location. If there is no secure area available for storage of the CDs, the CDs must be encrypted.

See AM section 0306.00, *Electronic Audit Working Papers*.